

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

NANCY WHITAKER,)
Plaintiff)
v.) No. 3:11-0522
LEON E. PANETTA,) Judge Nixon/Brown
SECRETARY OF DEFENSE,) **Jury Demand**
Defendant)

ORDER

A telephone conference was held with the parties to discuss scheduling issues. Although Plaintiff's counsel is late in responding to the first set of discovery requests the Magistrate Judge will not deem them admitted. Part of the problem clearly is that the attorneys did not talk to each other directly and communications from their various assistants were not passed up to them timely. The Magistrate Judge strongly recommends that the attorneys talk directly to each other about problems and not allow them to reach the magnitude of this one. Plaintiff advised that she would be sending her responses today.

The Government expects to receive a disc containing various discovery materials, which will be promptly provided to the Plaintiff. Plaintiff advised that she would have to have this material printed out, review it, then see what additional depositions are needed. Plaintiff's counsel advised that there were some depositions of witnesses from Korea and Virginia, among other locations. Plaintiff's counsel should provide the name of

these witnesses as soon as practicable. The parties are strongly encouraged to take out-of-town depositions by telephone, video conferencing, or other electronic means.

Counsel for the Government advised that they normally needed 30 days to arrange depositions of teachers to allow for appropriate schedule adjustments. The Magistrate Judge is concerned that costs in this matter seem to be rapidly increasing.

Because of these delays, discovery in this matter may remain open until **January 31, 2013**. The deadline for expert witnesses has passed and neither party has advised they anticipate experts. The Magistrate Judge will therefore not reopen expert disclosure and there will be no experts in this case.

Dispositive motions will be due on or before **March 15, 2013**. Responses to dispositive motions will be due **21 days** thereafter. Briefs shall not exceed **25 pages**. Optional replies, limited to **five pages**, will be due **seven days** after service of the response. If dispositive motions are filed early, the response and reply dates are moved up accordingly.

After consulting with Judge Nixon's chambers, the final pretrial conference and trial dates set in Docket Entry 16 are **CANCELED**. The parties estimate that this jury trial will take three days, depending on what issues remain for trial. After consulting with Judge Nixon's courtroom deputy, this matter is reset for trial on **September 17, 2013, at 9:00 a.m.** Judge Nixon will conduct the

final pretrial conference on **September 6, 2013, at 10:00 a.m.**

Judge Nixon will issue a separate order covering his requirements for the final pretrial conference and the trial.

Given the cost and complexity of this case, the Magistrate Judge strongly recommends that the parties exchange realistic settlement offers and consider requesting a settlement conference if they believe that there is a reasonable possibility of settlement in this case. The Magistrate Judge stands ready to assist in this endeavor at the parties' request at any time.

It is so **ORDERED**.

/s/ Joe B. Brown
JOE B. BROWN
United States Magistrate Judge